

providing left and right first linkage members;

connecting left and right foot supporting members to first portions of respective first linkage members;

connecting second portions of the first linkage members to radially displaced portions of respective cranks in such a manner that the second portions of the first linkage members rotate about respective rotating axes relative to respective cranks;

providing left and right second linkage members;

rotatably connecting third portion of the first linkage members to respective second linkage members in such a manner that respective rotating axes are disposed between respective second linkage members and respective foot supporting members;

connecting the second linkage members to a second frame portion in such a manner that the second linkage members rotate about a second frame-based axis relative to the frame; and

selectively moving the first frame portion relative to the second frame portion to adjust the configuration of the substantially elliptical exercise motion.

#### Remarks

First, the Examiner rejected claims 1 and 3-8 as being anticipated by and/or unpatentable over U.S. Pat. No. 5,788,610 to Eschenbach. Applicant respectfully traverses this rejection on the basis that the cited Eschenbach patent is not prior art vis-a-vis the claimed invention. In this regard, the claimed subject matter is entitled to a filing date which precedes the filing date of the cited Eschenbach patent (September 9, 1996).

The claimed subject matter is supported by the first full paragraph in column 10 of U.S. Pat. No. 5,707,321, which was filed on June 30, 1995, and received Ser. No. 08/497,377. A continuation application was filed on August 19, 1997, and received Ser. No. 08/914,206 (now U.S. Pat. No. 5,897,463). The subject application is a continuation-in-part of the continuation application. For ease of reference, all of the relevant dates associated with these three cases are set forth below in chronological order.

06/30/95 Filing date of Original Parent (08/497,377)  
08/19/97 Filing date of Continuation (08/914,206)  
01/13/98 Issue date of Original Parent (5,707,321)  
04/23/98 Filing date of Subject Application (09/065,308)  
04/27/99 Issue date of Continuation (5,897,463)

Second, the Examiner rejected claims 1-9 under the judicially created doctrine of obviousness-type double patenting in view of U.S. Pat. Nos. 5,938,570 and 5,897,463. Upon an indication that the claims are otherwise allowable, Applicant will promptly submit an appropriate terminal disclaimer.

Third, the Examiner rejected claim 9 as being indefinite. Applicant respectfully traverses this rejection and requests reconsideration in view of the foregoing amendment to claim 9, which now positively recites the first linkage members and the second linkage members for purposes of establishing proper antecedent basis.

Having addressed the issues raised in the subject Office Action, Applicant respectfully requests reconsideration and allowance of claims 1-9. The Examiner is certainly welcome to contact Applicant's undersigned representative to discuss any matter regarding this application.

Respectfully submitted,

MAKUL  
Mark A. Krull  
Reg. No. 34,205

1705 East Ridge Court  
Northfield, MN 55057  
(507) 645-1605